THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.3714 of 1999

ORAL ORDER:

This writ petition is filed questioning the award dated 21.3.1998 passed in I.D.No.628 of 1993 on the file of the Labour Court-III, Hyderabad insofar as denying backwages and other attendant benefits and further withholding two annual increments with cumulative effect.

It appears, petitioner while working as Clerk in the Respondent Corporation at Kushaiguda Depot, Hyderabad, he was issued with a charge sheet enumerating the following charges:

"1. For having misbehaved and used un-parliamentary language against your supervisor on 13.11.1992, which constitutes misconduct under Regulation 28(viii) of APSRTC Conduct Regulations, 1963.

2. For having misbehaved and used un-parliamentary language against your supervisor in the presence of office staff and other depot staff on 21.11.1992, which constitutes misconduct under Regulation 28(viii) of APSRTC Conduct Regulations, 1963.

3. For singing and murmuring unconnected speech in the office from 13.11.1992 onwards, disturbing the colleagues which affected their normal work, which constitutes misconduct under Regulation 28(viii) of APSRTC Conduct Regulations, 1963.

4. For habitual scrubbing on office records, files and papers resulting in spoiling of office records and waste of stationery, which constitutes misconduct under Regulation 28(viii) of APSRTC Conduct Regulations, 1963.

5. For having created unpleasant scene in the office and disturbed condition for your colleagues, which constitutes misconduct under Regulation 28(viii) of APSRTC Conduct Regulations, 1963.

6. For having brought a knife to office and for threatening your colleagues on 23.11.1992, which constitutes misconduct under Regulation 28(viii) of APSRTC Conduct Regulations, 1963.

After conducting a detailed enquiry into the matter, petitioner was removed from service. Aggrieved by the same, she raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 praying to set aside the removal order. It was her contention that the charges leveled against her are all fabricated and forged one. She never used un-parliamentary language against anybody nor she is in the habit of scrubbing the office records. She did not use unconnected speech against others, nor she has created unpleasant atmosphere in the office nor she brought knife to the office and threatened colleagues. The enquiry was not properly conducted and absolutely there was no evidence to hold petitioner guilty of charges. Assuming that the charges are proved, punishment of removal from service is disproportionate to that of the misconduct alleged. The respondents filed a counter denying the allegations and asserted that the enquiry was properly conducted after giving full and fair opportunity to the petitioner. Since this is a case of grave misconduct, there was no other option for the disciplinary authority except to impose punishment of removal from service. Though, no oral evidence was adduced on either side, on behalf of management Exs.M1 to M52 were marked. After going through the entire material, the Labour Court came to the conclusion that the charges 1 to 5 are proved. However, while examining as to whether the punishment imposed on the petitioner is proportionate to that of the misconduct, the Labour Court held that prior to 13.11.1992, there was no complaint whatsoever against petitioner, therefore, directed reinstatement of the petitioner with continuity of service, but without any backwages by withholding two increments with cumulative effect. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner strenuously contended that absolutely there was no evidence to prove the charges. Further, the colleagues who are anemically disposed towards petitioner, foisted false cases against her. The findings of the enquiry officer are not based on true facts. Therefore, the Labour Court ought to have revised those findings and should have granted other reliefs, such as, backwages and attendant benefits. Further, the Labour Court erred in directing imposition of stoppage of two increments with cumulative effect, which is uncalled

for.

Per contra, the learned counsel for respondents supported the award passed by the Labour Court and submitted that the charges are grave in nature and petitioner's conduct is unbecoming of an employee of the Corporation. The Labour Court, in fact, taken a lenient view of the matter and granted reinstatement with continuity of service, which is reasonable in the facts and circumstances of the case and no interference is called for by this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

At the outset, I am of the opinion that the charges leveled against the petitioner are grave in nature. The conduct of the petitioner seems to be unbecoming of an employee of the Corporation. The Labour Court has already held that there are no substantial reasons to interfere with the findings recorded by the enquiry officer. Since the previous conduct of the petitioner prior to 13.11.1992 was blameless, the Labour Court while exercising powers under Section 11-A of the I.D. Act, directed the management to reinstate the petitioner with continuity of service, but without any backwages and further directed to impose punishment of stoppage of two increments with cumulative effect. This punishment, in the facts and circumstances of the case, cannot be said to be either arbitrary or illegal nor requires to be interfered by this Court under Article 226 of the Constitution of India. The award passed by the Labour Court is perfectly valid and justified. The writ petition is devoid of merits and liable to be dismissed.

Accordingly the writ petition is dismissed. No order as to costs.

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C.V.RAMULU,
J

Date: 5.12.2007

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W.P.No.3714 of 1999

5.12.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.3714 of 1999

Date: 5th December, 2007

Between:

Smt.A.R.Sudhamsha Rekha

.. Petitioner

And

The Labour Court-III, rep. by its
Presiding Officer, M.J. Road,
Hyderabad & another.

.. Respondents